

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)

PREAMBLE

1. Sections Affected

Rulemaking Action

R9-22-1001	Amend
R9-22-1002	Amend
R9-22-1003	Amend
R9-22-1004	Amend
R9-22-1005	Amend
R9-22-1007	Amend
R9-22-1008	Amend

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 36-2901, 36-2903(F), 36-2903.01 (K), and 36-2915.

Implementing statute: A.R.S. §§ 36-2901, 36-2903(F), 36-2903.01 (K), and 36-2915.

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 14 A.A.R. [To be filled in by the Editor (page #), (date)]

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Mariaelena Ugarte
Address: AHCCCS
Office of Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSRules@azahcccs.gov

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The AHCCCS Administration proposes to amend the sections identified above as a result of a Five Year Review Report approved by the Governor's Regulatory Review Council on May 6, 2008. The subjects

requiring amendment are the definitions, payor of last resort requirements, cost avoidance requirements and other technical changes.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Administration did not review any study relevant to these rules.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

It is anticipated that the contractors, private sector, members, providers, small businesses, political subdivisions, the Department, and the Administration will be minimally impacted by the changes to the rule language. The areas requiring revision are for clarity as a result of a 5 Year Rule Review approved by the Governor's Regulatory Review Council. The Administration is proposing amendments to the rules to revise, reorganize, and clarify areas, such as, that county requirements are no longer used; reflect changes as required by DRA and CFR 433.139; describe were the Administration or contractor may pay the difference between TPL, Medicare, or a contracted rate and the Capped fee-for-service schedule; and clarify the exceptions of when the Administration may not be the payor of last resort.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Mariaelena Ugarte
Address: AHCCCS
Office of Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSRules@azahcccs.gov

Proposed rule language will be available on the AHCCCS website www.azahcccs.gov the week of June 2, 2008. Please send written comments to the above address by 5:00 p.m., July 15, 2008. E-mail comments will also be accepted during this timeframe.

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: July 15, 2008
Time: 10:00 a.m.
Location: AHCCCS
701 East Jefferson
Phoenix, AZ 85034
Nature: Public Hearing

Date: July 15, 2008
Time: 10:00 a.m.
Location: ALTCS: Arizona Long-Term Care System
110 South Church, Suite 1360
Tucson, AZ 85701
Nature: Public Hearing

Date: July 15, 2008
Time: 10:00 a.m.
Location: ALTCS: Arizona Long-Term Care System
3480 East Route 66
Flagstaff, AZ 86004
Nature: Public Hearing

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

ADMINISTRATION

ARTICLE 10. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES

Section

R9-22-1001. Definitions

R9-22-1002. General Provisions

R9-22-1003. Cost Avoidance

R9-22-1004. Member Participation

R9-22-1005. Collections

R9-22-1007. Notification for Perfection, Recording, and Assignment of AHCCCS Liens

R9-22-1008. Notification Information for Liens

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

ADMINISTRATION

ARTICLE 10. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES

R9-22-1001. Definitions

In addition to the definitions in A.R.S. § 36-2901 and 9 A.A.C 22, Article 1, the following definitions apply to this Article:

"Cost avoid" means to deny a claim and return the claim to the provider for a determination of the amount of first- or third-party liability.

"First-party liability" means the obligation of any insurance or other coverage obtained directly or indirectly by a member that provides benefits directly to the member to pay all or part of the expenses for medical services incurred by AHCCCS or a member.

"Third-party" means a person, entity, or program that is, or may be, liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or member.

~~"Third party liability" means the obligation of a person, entity, or program by agreement, circumstance, or otherwise, to pay all or part of the medical expenses incurred by an applicant or member.~~

"Third-party liability" means any individual, entity or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished under a State plan.

R9-22-1002. General Provisions

AHCCCS is the payor of last resort unless specifically prohibited by applicable state or federal law, which includes the following entities but is not limited to:

1. IHS/638
2. Title 4E
3. AZIP
4. Contract health

R9-22-1003. Cost Avoidance

- A. AHCCCS shall cost avoid a claim if AHCCCS establishes the probable existence of first- or third-party liability or has information that establishes that first- or third-party liability exists.
- B. When the amount of first- or third-party liability is determined, ~~AHCCCS~~ the Administration or a contractor, when reimbursing a non-contracting provider, shall pay no more than the difference between the Capped Fee-For-Service Schedule amount and: ~~the amount of the first- or third-party liability.~~
1. The amount of the first- or third-party liability;
 2. The amount paid by Medicare; or
 3. The contracted amount for a member enrolled with a contractor.
- C. The requirement to cost avoid applies to all AHCCCS-covered services under Article 2 of this Chapter, unless otherwise specified in this Section. The following parties shall take reasonable measures to identify potentially legally liable first- or third-party sources:
1. AHCCCS, the Administration, or contractor.
 2. A provider,
 3. A noncontracting provider, and
 4. A member.
- D. The following exceptions apply to subsection B, when the Administration or a contractor find that a third party may be liable for the services provided, the Administration or contractor must pay the full amount according to the Capped-Fee-For-Service Schedule and then seek reimbursement later, when the claim is for:
1. Labor and delivery and postpartum care, or
 2. When the liability is from an absent parent, prenatal care and EPSDT services

R9-22-1004. Member Participation

A member shall cooperate in identifying potentially legally liable first- or third-parties and timely assist ~~AHCCCS~~ the Administration and a contractor, provider, or noncontracting provider in pursuing any first- or third-party who may be liable to pay for covered services.

R9-22-1005. Collections

A. Parties that notify AHCCCS. A provider or noncontracting provider shall cooperate with AHCCCS by identifying all potential sources of first- or third-party liability and notify AHCCCS of these sources.

B. Parties that pursue collection or reimbursement. AHCCCS, a provider, or noncontracting provider shall pursue collection or reimbursement from all potential sources of first- or third-party liability. When first or third party liability is found after reimbursement has been made, the provider or noncontracting provider is required to bill the liable party, and then resubmit the claim to the Administration or contractor for an adjustment.

R9-22-1007. Notification for Perfection, Recording, and Assignment of AHCCCS Liens

~~A. County requirements. The member's county of residence shall notify AHCCCS under R9-22-1008 within 30 days after providing hospital or medical services to a member for an injury or condition resulting from circumstances reflecting the probable liability of a first- or third party to enable AHCCCS to preserve lien rights under A.R.S. §§ 36-2915 and 36-2916.~~

~~B.A.~~ Hospital requirements. A hospital providing medical services to a member for an injury or condition resulting from circumstances reflecting the probable liability of a first- or third-party shall within 30 days after a member's discharge:

1. Notify AHCCCS via facsimile or mail under R9-22-1008, or
2. Mail AHCCCS a copy of the lien the hospital proposes to record or has recorded under A.R.S. § 33-932.

~~C.B.~~ Provider and noncontracting provider requirements. A provider or noncontracting provider, other than a hospital, rendering medical services to a member for an injury or condition resulting from circumstances reflecting the probable liability of a first- or third-party shall notify AHCCCS under R9-22-1008 within 30 days after providing the service.

R9-22-1008. Notification Information for Liens

A. Except as provided in subsection (B), ~~a county,~~ hospital, provider, and noncontracting provider identified in R9-22-1007 shall provide the following information to AHCCCS in writing:

1. Name of the provider or noncontracting provider;
2. Address of the provider or noncontracting provider;
3. Name of member;
4. Member's Social Security Number or AHCCCS identification number;
5. Address of member;
6. Date of member's admission;
7. Amount estimated to be due for care of member;

8. Date of discharge, if member has been discharged;

9. Name of county in which injuries were sustained; and

10 Name and address of all persons, firms, and corporations and their insurance carriers claimed by the member or legal representative to be liable for damages.

B. If the date of discharge is not known at the time the information in subsection (A) is provided, a party identified in subsection (A) shall notify AHCCCS of the date of discharge within 30 days after the member has been discharged.